

REMARKS

This Amendment is fully responsive to the non-final Office Action dated May 27, 2009, issued in connection with the above-identified application. Claims 1-15, 17-33, 35-37 and 39 are pending in the present application. With this Amendment, claims 1, 19 and 39 have been amended. No new matter has been introduced by the amendments made to the claims. Favorable reconsideration is respectfully requested.

In the Office Action, claim 39 has been objected to for creating several potential issues under 35 U.S.C. 101. The Applicants have amended independent claim 39 to resolve the potential issues under 35 U.S.C. 101. Specifically, the Applicants have amended claim 39 to point out that the program is stored on “a computer-readable *storage* medium.” Additionally, the Applicants offer the following comments in support of the amendments made to claim 39.

First, the Examiner indicates that “there is no explicit processor recited to execute said functional descriptive material (computer code stored on a storage medium).” The Applicants respectfully point out that “a processor to execute functional descriptive material” has never been required for software (i.e., functional descriptive material) to be statutory subject matter under 35 U.S.C. 101. In fact, MPEP 2106.01 clearly states the following:

*“When functional descriptive material is **recorded on some computer-readable medium**, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since the use of technology permits the function of the descriptive material to be realized.”* (Emphasis added).

Thus, the only apparent requirement for functionally descriptive material (e.g., software) to be statutory under 35 U.S.C. 101 is to be **“recorded on some computer-readable medium.”**

Second, the Examiner indicates that reciting “a computer recordable recording medium recording a program is too broad and may be construed to include a signal, which is non-statutory.” As noted above, the Applicants have replaced “recording medium” with “*storage* medium,” to imply the use of some memory device that stores a program. Additionally, the Applicants respectfully point out that the claim is directed to functional descriptive material, no non-functional descriptive material.

MPEP 2106.01 does suggest that *“merely claiming nonfunctional descriptive material*

stored on a computer-readable medium in a computer, or on an electromagnetic carrier signal, does not make it statutory.”(Emphasis added). As noted above, claim 39 is directed to functional descriptive material that is recorded on “a computer-readable storage medium, which is clearly statutory subject matter (see MEPE 2106.01). Withdrawal of the objection to claim 39 is respectfully requested.

In the Office Action, claims 1-3, 7, 9-12, 14, 17, 19-21, 25, 27-30, 32, 35, 37 and 39 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (U.S. Patent No. 7,185,355, hereafter “Ellis”) in view of DeFreese et al. (U.S. Patent No. 6,493,876, hereafter “DeFreese”). The Applicants have amended independent claims 1, 19 and 39 to help further distinguish the present invention from the cited prior art. Claim 1, as amended, recites the following features:

“[a] recommended program notification method of notifying a user of a recommended program, comprising the steps of:

inputting a user's instruction including a recommendation control instruction;
detecting notification timing with which a notification of a recommended program is performed, when the recommendation control instruction is not input; and
displaying a notification screen indicating the existence of a recommended program when the notification timing is detected

selecting each recommendation condition, which corresponds to the recommended program, to be displayed from among a plurality of recommendation conditions;

generating each recommendation reason, which corresponds to the recommended program, from each selected recommendation condition; and

causing the generated recommendation condition, which corresponds to the recommended program, to be included in the notification screen.” (Emphasis added).

The features emphasized above in independent claim 1 are similarly recited in independent claims 19 and 39 (as amended). Additionally, the features emphasized above in independent claim 1 (and similarly recited in independent claims 19 and 39) are fully supported by the Applicants' disclosure (see e.g., Fig. 18).

In the Office Action, the Examiner relies on Ellis in view of DeFreese for disclosing or

suggesting all the features recited in at least independent claims 1, 19 and 39. However, the Examiner relies primarily on Ellis for disclosing of suggesting the features emphasized above in independent claim 1 (and similarly recited in independent claims 19 and 39). However, the Applicants respectfully disagree with the Examiner's interpretation of Ellis.

In Ellis, an example of the recommendation reason (e.g., the reason "ONLY LIKES") is shown in Fig. 19. However, the recommendation reason of present invention is clearly different from Ellis.

For example, Fig. 18 of the Applicants' disclosure describes the present invention (as recited in independent claim 1, 19 and 39) in more detail. As described in Fig. 18, a set of recommended programs is extracted in step S601; one recommended program is selected in step S603; and the recommendation reason as to the selected program is obtained in steps S604 through S609. After obtaining a recommendation reason for all recommended programs, the control of the recommended program notification device goes to step S611.

In other words, the process of the present invention (noted above) is as follows: a) a plurality of recommended program candidates are extracted; b) each recommendation reason for each of the plurality of recommended programs candidates is checked; and c) the screen which includes a character string indicating the recommendation reason is generated and displayed (i.e., a screen which includes character strings indicating respectively varying recommendation reasons as to a plurality of programs can be displayed).

Conversely, in Ellis, a recommendation condition is first specified; a user performs operations of selecting and inputting the condition; and a user profile is prepared. Then, based on this profile (i.e., which is prepared by the user and appropriately corrected through causing the device to monitor a viewing condition), the recommended program is retrieved. Thus, Ellis more accurately discloses that a program, which matches a profile, is displayed. Ellis does not disclose that a recommendation reason is generated from the selected recommendation condition, as in the present invention (as recited in independent claims 1, 19 and 39).

In addition, as shown Fig. 19 of Ellis, a number of programs are displayed with respect to one recommendation reason. However, Ellis does not disclose or suggest that a recommendation reason (which corresponds to each of the plurality of programs) is individually selected and

displayed, as in the present invention (as recited in independent claims 1, 19 and 39). In other words, Ellis cannot collectively display a plurality of recommended programs whose recommendation reasons are different from one another. The present invention (as recited in independent claims 1, 19 and 39), on the other hand, provides the advantageous effect of allowing the display of the respectively varying recommendation reasons as to a plurality of programs.

Finally, in Ellis, when “selecting a recommendation condition,” a user’s preference is selected and inputted into a profile. However, Ellis fails to disclose or suggest that after the recommendation program is executed, the CPU automatically selects the reason for the extraction, as in the present invention (as recited in independent claims 1, 19 and 39).

Based on the above discussion, independent claims 1, 19 and 39 (as amended) are distinguished from Ellis. Moreover, DeFreeze was not relied on for disclosing the features emphasized above in independent claim 1 (and similarly recited in independent claims 19 and 39). Regardless, after a detailed review of DeFreeze, the reference fails to overcome the deficiencies noted above in Ellis. Accordingly, no combination of Ellis and DeFreeze would result in, or otherwise render obvious, independent claims 1, 19 and 39 (as amended). Likewise, no combination of Ellis and DeFreeze would result in, or otherwise render obvious, claims 2, 3, 7, 9-12, 14, 17, 20, 21, 25, 27-30, 32, 35 and 37 at least by virtue of their respective dependencies from independent claims 1 and 19.

In the Office Action, claims 4-6, 8, 22-24 and 26 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of DeFreeze, and further in view of Schein (U.S. Patent No. 6,732,369, hereafter “Schein”); and claims 13, 15, 18, 31, 33 and 36 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of DeFreeze, and further in view of Wagner (U.S. Patent No. 6,335,736, hereafter “Wagner”).

Claims 4-6, 8, 13, 15 and 18 depend from independent claim 1; and claims 22-24, 26, 31, 33 and 36 depend from independent claim 19. As noted above, Ellis and DeFreeze fail to disclose or suggest all the features recited in independent claims 1 and 19 (as amended). Additionally, Schein and Wagner fail to overcome the deficiencies noted above in Ellis and DeFreeze. Accordingly, no combination of Ellis and DeFreeze with Schein or Wagner would

result in, or otherwise render obvious, claims 4-6, 8, 13, 15, 18, 22-24, 26, 31, 33 and 36 at least by virtue of their respective dependencies from independent claims 1 and 19.

In light of the above, the Applicants respectfully submit that all the pending claims are patentable over the prior art of record. The Applicants respectively request that the Examiner withdraw the objections and rejections presented in the outstanding Office Action, and pass the present application to issue. The Examiner is invited to contact the undersigned attorney by telephone to resolve any remaining issues.

Respectfully submitted,

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August 26, 2009